

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

EDWARD D. NELSON and ALLISON NELSON, )  
husband and wife, )

Plaintiffs, )

v. )

SANDVIK MINING AND CONSTRUCTION, )  
INC., a corporation; FORGE WELKIN, INC., a )  
corporation; DRILTECH, INC., a corporation; and )  
ABC CORPORATION, )

Defendants. )

NO.

DEFENDANT SANDVIK MINING AND  
CONSTRUCTION USA, LLC'S  
(MISTAKENLY NAMED SANDVIK  
MINING AND CONSTRUCTION, INC.)  
NOTICE OF REMOVAL

Kitsap County Superior Court  
Cause No. 10-2-01752-5

COMES NOW defendant Sandvik Mining and Construction USA, LLC, mistakenly  
identified as Sandvik Mining and Construction, Inc. (hereinafter "Sandvik"), by and through its  
attorneys, Ogden Murphy Wallace P.L.L.C., and files this Notice of Removal of this action to the  
United States District Court for the Western District of Washington at Tacoma, and sets forth  
the following grounds for removal:

1. This suit is a civil action filed in the Superior Court of the State of Washington for  
Kitsap County, on or about August 6, 2010, entitled *Edward D. Nelson and Allison Nelson,*  
*husband and wife v. Sandvik Mining and Construction, Inc, Forge Welkin, Inc., Driltech, Inc.*  
*and ABC Corporation*, Cause No. 10-2-01762-5. A copy of the Summons and Complaint in this

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DEFENDANT SANDVIK MINING AND CONSTRUCTION USA,  
LLC'S (MISTAKENLY NAMED SANDVIK MINING AND  
CONSTRUCTION, INC.) NOTICE OF REMOVAL - 1

OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686  
Tel: 206.447.7000/Fax: 206.447.0215

1 action is attached hereto as Exhibit 1 and constitutes all process, pleadings, and orders served  
2 upon the defendant in this action.

3 2. The aforesaid action was commenced by service of process consisting of the  
4 Summons and Complaint upon CT Corporation System, Seattle Washington, Sandvik's statutory  
5 agent, which received a copy of the Summons and Complaint on or about September 22, 2010.

6 3. The above described action is one in which this Court has original jurisdiction  
7 under the provisions of Title 28, United States Code, § 1332, and is removable to this court  
8 pursuant to the provisions of Title 28, United States Code, § 1441, in that it is a civil action  
9 wherein the matter in controversy exceeds the sum of Seventy-Five Thousand Dollars  
10 (\$75,000.00), exclusive of interest and costs, and is between citizens of different states.

11 4. Plaintiffs Edward D. Nelson and Allison Nelson were, at the time this action was  
12 commenced, and still are, citizens of the State of Washington.

13 5. Defendant Sandvik was, at the time this action was commenced, and still is, a  
14 limited liability corporation organized under the laws of the State of Delaware with its principal  
15 place of business in Alachua, Florida. The members of the Sandvik LLC are Sandvik, Inc. and  
16 Tamcorp, Inc. Sandvik, Inc. and Tamcorp, Inc. are both Delaware corporations, thereby proving  
17 that there is complete diversity between the plaintiffs and defendants, respectively. *See Savard*  
18 *Declaration*, Exhibit 1 and the attached Sandvik Corporate Disclosure Statement attached hereto  
19 as Exhibit 2.

20 6. Defendant Forge Welkin LLC (mistakenly referred to in the Complaint as Forge  
21 Welkin, Inc.) (hereinafter "Forge Welkin") was an Oregon limited liability company. However,  
22 a search of the official Oregon Secretary of State website confirms that Forge Welkin LLC was  
23 administratively dissolved on September 10, 2010. *See Savard Declaration*, Exhibit 2. Sandvik  
24 has notified and obtained the consent of Forge Welkin to remove this case to federal court.  
25 28 U.S.C. § 1446.  
26

1           7.       Prior to the instant suit, defendant Driltech Inc. was consolidated into defendant  
2 Sandvik. Defendant Driltech Inc. is no longer a viable entity. *See* Savard Declaration, Exhibit 3.

3           8.       Defendant ABC Corporation is not a known corporation, as admitted by plaintiffs  
4 in their Complaint. ABC Corporation is not listed as a corporation in any website listing and is  
5 not a viable corporate entity. *See* Savard Declaration, Exhibit 4.

6           9.       The plaintiffs allege in the Complaint that they are entitled to compensatory  
7 damages from the defendants in an unspecified amount. Defendant Sandvik believes that  
8 plaintiffs will seek damages well in excess of Seventy-Five Thousand Dollars (\$75,000.00) for  
9 general, special and punitive damages sustained from the incidents which occurred on or about  
10 August 10, 2007 and August 24, 2007, in Mason County, Jefferson County, and Kitsap County,  
11 Washington, purportedly as a result of the alleged negligence and product liability claims  
12 brought against Sandvik by the plaintiffs. *See* Savard Declaration, Exhibit 5.

13          10.       Pursuant to Fed. R. Civil P. 7.1 Sandvik's corporate disclosure statement is being  
14 filed separately with the removal papers.

15          11.       Written notice of the filing of this Notice of Removal will be given to plaintiffs  
16 and to the other defendants in this action, together with a copy of the Notice of Removal to  
17 plaintiffs and supporting papers with the Superior Court of Washington, County of Kitsap, as  
18 required under 28 U.S.C. § 1446(d).

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26 ///

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DEFENDANT SANDVIK MINING AND CONSTRUCTION USA,  
LLC'S (MISTAKENLY NAMED SANDVIK MINING AND  
CONSTRUCTION, INC.) NOTICE OF REMOVAL - 3

OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686  
Tel: 206.447.7000/Fax: 206.447.0215

DATED this 21<sup>st</sup> day of October, 2010.

By s/Robert G. André

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OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686  
Tel: 206.447.7000/Fax: 206.447.0215

**CERTIFICATE OF SERVICE**

I certify under the laws of the United States of America that on the 21<sup>st</sup> day of October 2010 I electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using the CM/ECF System and served counsel below by the method indicated:

Jerald D. Pearson  
The Pearson Law Firm, P.S.  
35131 Southeast Douglas Street  
Suite 103  
Snoqualmie, Washington 98065-9233  
**Attorneys for Plaintiffs**

<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Messenger
<input type="checkbox"/>	Email
<input checked="" type="checkbox"/>	Facsimile
<input type="checkbox"/>	CM/ECF

DATED this 21<sup>st</sup> day of October, 2010.

s/Robert G. André, WSBA#13072  
Robert G. André

# **EXHIBIT 1**

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KITSAP

EDWARD D. NELSON and ALLISION  
NELSON, husband and wife,

Plaintiffs,

vs.

No.

SANDVIK MINING AND  
CONSTRUCTION, Inc., a corporation;  
FORGE WELKIN, Inc., a corporation;  
DRILTECH, Inc., a corporation; and  
ABC Corporation.

Defendants.

**COMPLAINT FOR PERSONAL INJURIES IN TORT  
(PRODUCT LIABILITY)**

COME NOW the Plaintiffs and for claims against the Defendants hereby  
allege as follows:

COMPLAINT FOR PERSONAL INJURIES IN TORT  
(PRODUCT LIABILITY) -1

THE PEARSON LAW FIRM, P.S.  
25131 SE DOUGLAS STREET, SUITE 403  
SNOQUALMIE, WA 98065  
425 831-3100  
FAX 425 831-9100

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1. PARTIES:

1.1 PLAINTIFFS NELSON (hereinafter referred to as "NELSON"):

Edward D. Nelson and Allison Nelson are husband and wife and are residents of Kitsap County, Washington.

1.2 DEFENDANT SANDVIK MINING AND CONSTRUCTION, INC.

(hereinafter referred to as "Sandvik"): Sandvik is a corporation, duly registered and licensed to conduct business in the State of Washington, and at all relevant times Sandvik, in association with Arcadia Drilling, and other defendants, was conducting business in Mason County, Jefferson County and Kitsap County, Washington; and at all material times Sandvik and/or other defendants designed, manufactured and/or distributed the drilling rig product at issue in this matter.

1.3 DEFENDANT DRILTECH INC. (hereinafter referred to as

"Driltech"): Driltech is a corporation, duly registered and licensed to conduct business in the State of Washington, and at all relevant times Driltech, in association with Arcadia Drilling, and other defendants, was conducting business in Mason County, Jefferson County and Kitsap County, Washington; and at all material times Driltech and/or other defendants designed, manufactured and/or distributed the drilling rig product at issue in this matter.

1.4 DEFENDANT FORGE WELKIN INC. (hereinafter referred to as

"Forge"): Forge is a corporation, duly registered and licensed to conduct business in the State of Washington, and at all relevant times Forge, in association with Arcadia Drilling, and other defendants, was conducting

COMPLAINT FOR PERSONAL INJURIES IN TORT  
(PRODUCT LIABILITY) -2

THE PEARSON LAW FIRM, P.S.  
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1 business in Mason County, Jefferson County and Kitsap County, Washington,  
2 and at all material times Forge and/or other defendants designed,  
3 manufactured and/or distributed the drilling rig product at issue in this matter.  
4

5 1.5 DEFENDANT ABC CORPORATION (hereinafter referred to as "ABC"):

6 ABC is a corporation whose true identity is not known to Nelson at this time,  
7 but on information and belief ABC was duly registered and licensed to conduct  
8 business in the State of Washington, and at all relevant times ABC, in  
9 association with Arcadia Drilling, and other defendants, was conducting  
10 business in Mason County, Jefferson County and Kitsap County, Washington,  
11 and at all material times ABC and/or other defendants designed, manufactured  
12 and/or distributed the drilling rig product at issue in this matter.  
13  
14

15 2. JURISDICTION AND VENUE: The subject matter hereof and the  
16 parties hereto are subject to the jurisdiction of the above-entitled Court; and  
17 venue is proper.  
18

19 3. NEGLIGENCE: On or about August 10 and August 24, 2007, Edward  
20 Nelson was injured by the defective drill rig product that was not reasonably  
21 safe as designed, manufactured and/or as sold and/or distributed by  
22 defendants, and defendants were careless, unskillful, and negligent in causing  
23 injury to plaintiffs Nelson.  
24

25 4. PRODUCT LIABILITY: Defendants are liable under various  
26 standards of care and statutes, including the Washington Product Liability Act,  
27 due to the fact that the drill rig product was not reasonably safe as  
28 manufactured, designed, and/or as sold and distributed, and the drill rig  
29

COMPLAINT FOR PERSONAL INJURIES IN TORT  
(PRODUCT LIABILITY) -3

THE PEARSON LAW FIRM, P.S.  
35131 SE DOUGLAS STREET, SUITE 103  
SNOQUALMIE, WA 98063  
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FAX 425 831-3105

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1 product was not reasonably safe with respect to warnings; additionally  
2 defendants breached warranties express and implied, and such defects and  
3 breaches were a proximate cause of injury to plaintiffs Nelson.  
4

5 5. PLAINTIFFS' DAMAGES: As a direct, immediate and proximate  
6 cause of the negligent and wrongful actions of defendants, the plaintiffs Nelson  
7 sustained severe personal injuries, probable permanent disabilities, and loss of  
8 consortium, all to their actual and continuing damage in an amount to be  
9 proven at trial.  
10

11 WHEREFORE, plaintiffs pray for judgment against defendants, jointly and  
12 severally, as follows:  
13

14 a. For an amount commensurate with Plaintiffs' injuries to be  
15 determined at the time of trial;

16 b. For Plaintiffs' costs, disbursements, pre-judgment interest on  
17 liquidated damages and attorney's fees incurred herein;

18 c. For punitive/exemplary damages; and

19 d. For such other and further relief as the Court deems just and  
20 equitable.  
21

22 DATED this 6th day of August, 2010.  
23

24 THE PEARSON LAW FIRM, P.S.

25  
26 By: 

27 JERALD D. PEARSON, WSBA #8970  
28 Attorney for Plaintiffs  
29

COMPLAINT FOR PERSONAL INJURIES IN TORT  
(PRODUCT LIABILITY) -4

THE PEARSON LAW FIRM, P.S.  
15111 SE DOUGLAS STREET, SUITE 103  
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425 831-3100  
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## **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

EDWARD D. NELSON and ALLISON NELSON, )  
husband and wife, )

Plaintiffs, )

v. )

SANDVIK MINING AND CONSTRUCTION, )  
INC., a corporation; FORGE WELKIN, INC., a )  
corporation; DRILTECH, INC., a corporation; and )  
ABC CORPORATION, )

Defendants. )

NO.

DEFENDANT SANDVIK MINING AND  
CONSTRUCTION USA, LLC'S  
(MISTAKENLY NAMED SANDVIK  
MINING AND CONSTRUCTION, INC.)  
CORPORATE DISCLOSURE

Pursuant to Fed. R. Civ. P. 7.1, defendant Sandvik Mining and Construction USA, LLC, mistakenly identified as Sandvik Mining and Construction, Inc makes the following disclosures related to its corporate identity:

Defendant Sandvik Mining and Construction USA, LLC was at the time this action was commenced, and still is, a limited liability corporation organized under the laws of the State of Delaware with its principal place of business in Alachua, Florida. The members of the Sandvik LLC are Sandvik, Inc. and Tamcorp, Inc. Sandvik, Inc. and Tamcorp, Inc. are both Delaware corporations, thereby proving that there is complete diversity between the plaintiffs and defendants, respectively. Sandvik, Inc. owns more than 10% of Sandvik Mining and

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DEFENDANT SANDVIK MINING AND CONSTRUCTION USA, LLC'S  
(MISTAKENLY NAMED SANDVIK MINING AND CONSTRUCTION,  
INC.) CORPORATE DISCLOSURE - 1

OGDEN MURPHY WALLACE, P.L.L.C.  
1601 Fifth Avenue, Suite 2100  
Seattle, Washington 98101-1686  
Tel: 206.447.7000/Fax: 206.447.0215

1 Construction USA LLC.

2 DATED this 21<sup>st</sup> day of October, 2010.

3 OGDEN MURPHY WALLACE, P.L.L.C.

4  
5 By s/Robert G. André

6 Robert G. André, WSBA #13072

7 1601 Fifth Avenue, Suite 2100

8 Seattle, Washington 98101-1686

9 Tel: 206.447.7000/Fax: 206.447.0215

10 Attorneys for Defendant

11 Sandvik Mining and Construction USA, LLC